

**CIVIL SERVICE COMMISSION MINUTES**  
**JUNE 3, 2009**

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas  
Barry I. Newman  
Francesca Krauel  
W. Dale Bailey  
William O'Connor

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer  
Karen F. Landers, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

**Approved**  
**Civil Service Commission**

**July 1, 2009**

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION  
REGULAR MEETING MINUTES  
JUNE 3, 2009**

1:45 p.m.            CLOSED SESSION: Discussion of Personnel Matters  
and Pending Litigation

2:30 p.m.            OPEN SESSION: Room 358, 1600 Pacific Highway, San  
Diego, California

---

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
<b>4</b>	<b>3</b>		

COMMENTS: Motion by Newman to approve all items not held for  
discussion; seconded by Bailey. Carried.

**CLOSED SESSION AGENDA  
County Administration Center, Room 400B  
(Notice pursuant to Government Code Sec. 54954.2)  
Members of the public may be present at this  
location to hear the announcement of the  
closed session agenda.**

A. Commissioner Bailey: CONSIDERATION OF PUBLIC  
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) **NBL**,  
former Social Worker I, appealing a Final Order of  
Termination and Charges from the Health and Human  
Services Agency.

B. Commissioner Krauel: CONSIDERATION OF PUBLIC  
EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(b)) **Samuel  
Adelan**, former Legal Support Assistant II, appealing a  
Final Order of Dismissal and Removal from County  
Employment and Charges (Termination) from the Office of  
the District Attorney.

**OPEN SESSION AGENDA  
County Administration Center, Room 358**

**MINUTES**

1. Approval of the Minutes of the regular meeting of May 6,  
2009.

**Approved.**

## COMPULSORY LEAVE

### Request

2. Kim Martinic, Worksite Organizer, SEIU Local 221, on behalf of **Miguel Mendoza**, Registered Veterinary Technician, appealing his placement on Compulsory Leave by the Department of Animal Services.

RECOMMENDATION: Grant Request and Assign a Hearing Officer

**Staff recommendation approved. Commissioner Newman assigned.**

## DISCIPLINE

### Findings

3. Commissioner Bailey: **NBL**, former Social Worker I, appealing a Final Order of Termination and Charges from the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

**Continued.**

4. Commissioner Krauel: **Samuel Adelan**, former Legal Support Assistant II, appealing a Final Order of Dismissal and Removal from County Employment and Charges (Termination) from the Office of the District Attorney.

FINDINGS AND RECOMMENDATIONS:

The matter of the appeal of Samuel Adelan, (Employee), from a written Final Order of Dismissal and Removal from County Employment and Charges terminating Employee from the class and position of Legal Support Assistant II in the Office of the District Attorney, came on for hearing on May 4, 2009. The causes of discipline were:

Cause 1: Conduct Unbecoming an Employee of the County working for the San Diego District Attorney in violation of Civil Service Section 7.2(d) in that you plead guilty to a misdemeanor and were put on one year probation. You were orally reprimanded by this Office but allowed to retain your job with the understanding that there would be no further incidents involving the police. Recently, on January 8, 2009, a citizen made a complaint you were engaged in lewd conduct in a car parked in the Chula Vista Courthouse parking lot during working hours. While the investigation of this matter was taking

place, you made a statement to an employee of this office during working hours that you felt like killing someone. You were orally warned by a Legal Support Manager not to make such threats. You repeated the threat two more times causing great concern among your co-workers and, once more, disruption in the District Attorney's Office.

Cause 2: Violation of Civil Service Rule 7.2(r) Failure of Good Behavior as set forth in detail in Cause 1.

Cause 3: Violation of Civil Service Rule 7.2(s) committing an act that is incompatible with or inimical to the public service as set forth in detail in Cause 1.

Findings: Based on the evidence presented at the hearing, the Commission finds that: (1) the Department failed to present sufficient evidence to prove that the January 2, 2006, conduct and subsequent misdemeanor conviction was relevant to the Termination Action. There was no evidence that the Department notified the Employee that the 2006 conduct was inappropriate for a District Attorney employee. (2) The Department failed to present sufficient evidence to prove, by a preponderance of the evidence, that on January 8, 2009, Employee committed an act of lewd conduct in public. (3) The Department proved that Employee was improperly unclothed in the public parking lot. (4) During the investigation Employee repeatedly made statements that referenced killing someone, even after being admonished not to make such statements. There were several witnesses to the statements. Employee's complete denial at the hearing of making any of the reported statements was not credible.

Conclusions: Employee is guilty of Cause 1, unbecoming conduct. His conduct on January 8, 2009, and his statements about killing someone pose a threat to public peace and safety and are unbecoming of a County employee of an agency responsible for enforcing the law to preserve public peace and safety. Employee is guilty of Cause 2, failure of good behavior, and Cause 3, incompatible acts, for the same reasons set forth above. The termination of Employee's employment with the County is appropriate. Employee's conduct on January 8, 2009, demonstrates a significant lack of good judgment regarding his behavior. Employee's conduct during the subsequent investigation is an even more probative demonstration that Employee lacks the good judgment required of someone whose work duties implicate the

protection of the public peace and safety. His complete denial that he made any statements about killing demonstrates a lack of accountability and remorse for his misconduct. His denials also severely impugn his honesty and trustworthiness. "Zero tolerance," as used in the County's policy regarding workplace violence, means that all such conduct must be taken seriously. Employee was trained in the County's Workplace Violence Zero Tolerance policy. Employee knew or should have known that such comments, even when not a direct threat to the listener, can cause fear and intimidation in the workplace. As shown, Employee made the threatening statements repeatedly, even after being admonished not to make them. The totality of Employee's proven misconduct justifies the termination of his employment. Employee's misconduct demonstrates a propensity to exercise bad judgment when regulating his behavior and portends future acts of bad judgment resulting in significant misconduct.

Based on the findings and conclusions set forth above, I hereby recommend the following decision (1) that the Final Order of Dismissal and Removal from County Employment (Termination) be affirmed; and (2) that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Krauel to approve Findings and Recommendations; seconded by Newman. Carried.**

## **DISCRIMINATION**

### **Complaint**

5. **Dawn Jimenez**, Personnel Aide, Department of Parks and Recreation, alleging discrimination by the County Library.

RECOMMENDATION: Assign Commissioner Casillas as Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved.**

/ / /

/ / /

/ / /

**OTHER MATTERS**

6. Public Input.

ADJOURNED: 3:05 p.m.

**NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: JULY 1, 2009**

**ASSISTANCE FOR THE DISABLED:**

Agendas and records are available in alternative formats upon request. Contact the Civil Service Commission office at (619) 531-5751 with questions or to request a disability-related accommodation. Individuals requiring sign language interpreters should contact the Americans with Disabilities Coordinator at (619) 531-5205. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 24 hours in advance of the meeting so that arrangements may be made. An area in the front of the room is designated for individuals requiring the use of wheelchair or other accessible